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MICHELIE'S ANNOTATED STATUTES OF NEW MEXICO

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*** ARCHIVE DATA ***

* CURRENT THROUGH THE FIRST SPECIAL SESSION OF THE FORTY-SEVENTH LEGISLATURE

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* ANNOTATIONS CURRENT THROUGH 2005-NMCA-144 and 2005-NMSC-037 *

CHAPTER 29. LAW ENFORCEMENT

ARTICLE 1. PEACE OFFICERS IN GENERAL

N.M. Stat. Ann. § 29-1-16 (2006)§ 29-1-16. **Electronic recordings of custodial interrogations**

A. A state or local law enforcement officer shall comply when reasonably able to do so with the following procedures when conducting a custodial **interrogation**:

- (1) the custodial **interrogation** shall be electronically recorded in its entirety;
- (2) if conducted in a police station, the custodial **interrogation** shall be electronically recorded by a method that includes audio or visual or both, if available; and
- (3) the electronic recording shall include the advice of constitutional rights required by law.

B. A law enforcement officer shall comply with the provisions of this section unless the law enforcement officer has good cause not to electronically record the entire custodial **interrogation** and makes a contemporaneous written or electronic record of the reasons for not doing so. Good cause includes:

- (1) the electronic recording equipment was not reasonably available;
- (2) the electronic recording equipment failed and obtaining replacement equipment was not feasible;
- (3) the individual refused to be recorded; or
- (4) the statement was made in a court proceeding or a grand jury proceeding.

C. Statements that are spontaneously volunteered and not the result of custodial **interrogation** are not subject to the provisions of this section.

D. The provisions of this section shall apply only to custodial **interrogations** when, at the time of the **interrogation**, the person is suspected of committing a felony offense.

E. The provisions of this section do not apply to custodial **interrogations** conducted outside the state of New Mexico.

F. The provisions of this section do not apply to statements used for impeachment purposes.

G. The provisions of this section do not apply within a correctional facility.

H. As used in this section:

(1) "custodial **interrogation**" means questioning by law enforcement officers that requires the advice of constitutional rights; and

(2) "electronic recording" means a complete and authentic electronic recording created by visual or audio media, including by motion picture, videotape, audio tape or digital media.

I. This section shall not be construed to exclude otherwise admissible evidence in any judicial proceeding.

HISTORY: Laws 2005, ch. 252, § 1.